



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

October 17, 2018

Billy Collins
Superintendent
Borden County Independent School District
Box 95
Gail, Texas 79738

Re: Certificate for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Borden Independent School District and BNB Oxbow Solar, LLC, Application 1260

Dear Superintendent Collins:

On August 24, 2018, the Comptroller issued written notice that BNB Oxbow Solar, LLC (applicant) submitted a completed application (Application 1260) for a limitation on appraised value under the provisions of Tax Code Chapter 313.¹ This application was originally submitted on May 29, 2017, to the Borden Independent School District (school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

Determination required by 313.025(h)

Sec. 313.024(a) Applicant is subject to tax imposed by Chapter 171.
Sec. 313.024(b) Applicant is proposing to use the property for an eligible project.

¹ All Statutory references are to the Texas Tax Code, unless otherwise noted.

Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 1260.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

Certificate decision required by 313.025(d)

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem* tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).

The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-826) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement by December 31, 2018.

Note that any building or improvement existing as of the application review start date of August 24, 2018, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at will.counihan@cpa.texas.gov or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Craven". The signature is written in a cursive style with a large initial "L".

Lisa Craven
Deputy Comptroller

Enclosure

cc: Will Counihan

Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of BNB Oxbow Solar, LLC (project) applying to Borden County Independent School District (district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

Table 1 is a summary of investment, employment and tax impact of BNB Oxbow Solar, LLC.

Applicant	BNB Oxbow Solar, LLC
Tax Code, 313.024 Eligibility Category	Renewable energy electric generation
School District	Borden ISD
2017-2018 Average Daily Attendance	221
County	Borden
Proposed Total Investment in District	\$200,000,000
Proposed Qualified Investment	\$200,000,000
Limitation Amount	\$30,000,000
Qualifying Time Period (Full Years)	2019-2021
Number of new qualifying jobs committed to by applicant	2*
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$0
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$1,154.49
Minimum annual wage committed to by applicant for qualified jobs	\$60,034
Minimum weekly wage required for non-qualifying jobs	\$715
Minimum annual wage required for non-qualifying jobs	\$37,181
Investment per Qualifying Job	\$0
Estimated M&O levy without any limit (15 years)	\$9,252,296
Estimated M&O levy with Limitation (15 years)	\$4,466,473
Estimated gross M&O tax benefit (15 years)	\$4,785,822

* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).

Table 2 is the estimated statewide economic impact of BNB Oxbow Solar, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2018	0	436	436	\$0	\$31,400,000	\$31,400,000
2019	100	185	285.1	\$4,300,000	\$21,000,000	\$25,300,000
2020	150	263	413	\$6,450,000	\$31,150,000	\$37,600,000
2021	2	35	37	\$120,068	\$6,979,932	\$7,100,000
2022	2	9	11	\$120,068	\$4,179,932	\$4,300,000
2023	2	(10)	-8	\$120,068	\$1,979,932	\$2,100,000
2024	2	(17)	-15	\$120,068	\$779,932	\$900,000
2025	2	(16)	-14	\$120,068	\$379,932	\$500,000
2026	2	(12)	-10	\$120,068	\$379,932	\$500,000
2027	2	(7)	-5	\$120,068	\$579,932	\$700,000
2028	2	(1)	1	\$120,068	\$979,932	\$1,100,000
2029	2	4	6	\$120,068	\$1,379,932	\$1,500,000
2030	2	8	10	\$120,068	\$1,879,932	\$2,000,000
2031	2	11	13	\$120,068	\$2,279,932	\$2,400,000
2032	2	13	15	\$120,068	\$2,579,932	\$2,700,000
2033	2	15	17	\$120,068	\$2,879,932	\$3,000,000
2034	2	15	17	\$120,068	\$2,979,932	\$3,100,000

Source: CPA REMI, BNB Oxbow Solar, LLC

Table 3 examines the estimated direct impact on ad valorem taxes to the region if all taxes are assessed.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate*	Borden County ISD I&S Tax Levy	Borden County ISD M&O Tax Levy	Borden County ISD M&O and I&S Tax Levies	Borden County Tax Levy	Estimated Total Property Taxes
			0.2800	1.0400		0.7700		
2020	\$20,000,000	\$20,000,000		\$56,000	\$208,000	\$264,000	\$154,000	\$418,000
2021	\$130,471,320	\$130,471,320		\$365,320	\$1,356,902	\$1,722,221	\$1,004,629	\$2,726,851
2022	\$120,038,408	\$120,038,408		\$336,108	\$1,248,399	\$1,584,507	\$924,296	\$2,508,803
2023	\$108,781,348	\$108,781,348		\$304,588	\$1,131,326	\$1,435,914	\$837,616	\$2,273,530
2024	\$96,616,408	\$96,616,408		\$270,526	\$1,004,811	\$1,275,337	\$743,946	\$2,019,283
2025	\$83,487,600	\$83,487,600		\$233,765	\$868,271	\$1,102,036	\$642,855	\$1,744,891
2026	\$69,311,092	\$69,311,092		\$194,071	\$720,835	\$914,906	\$533,695	\$1,448,602
2027	\$54,003,152	\$54,003,152		\$151,209	\$561,633	\$712,842	\$415,824	\$1,128,666
2028	\$37,465,876	\$37,465,876		\$104,904	\$389,645	\$494,550	\$288,487	\$783,037
2029	\$28,264,100	\$28,264,100		\$79,139	\$293,947	\$373,086	\$217,634	\$590,720
2030	\$28,256,100	\$28,256,100		\$79,117	\$293,863	\$372,981	\$217,572	\$590,552
2031	\$28,248,300	\$28,248,300		\$79,095	\$293,782	\$372,878	\$217,512	\$590,389
2032	\$28,240,700	\$28,240,700		\$79,074	\$293,703	\$372,777	\$217,453	\$590,231
2033	\$28,233,300	\$28,233,300		\$79,053	\$293,626	\$372,680	\$217,396	\$590,076
2034	\$28,226,100	\$28,226,100		\$79,033	\$293,551	\$372,585	\$217,341	\$589,925
			Total	\$2,491,003	\$9,252,296	\$11,743,298	\$6,850,257	\$18,593,556

Source: CPA, BNB Oxbow Solar, LLC

*Tax Rate per \$100 Valuation

Table 4 examines the estimated direct impact on ad valorem taxes to the school district and Borden County, with all property tax incentives sought being granted using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with the county.

The difference noted in the last line is the difference between the totals in Table 3 and Table 4.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate*	Borden County ISD I&S Tax Levy	Borden County ISD M&O Tax Levy	Borden County ISD M&O and I&S Tax Levies	Borden County Tax Levy	Estimated Total Property Taxes
				0.2800	1.0400		0.7700	
2020	\$20,000,000	\$20,000,000		\$56,000	\$208,000	\$264,000	\$154,000	\$418,000
2021	\$130,471,320	\$30,000,000		\$365,320	\$312,000	\$677,320	\$0	\$677,320
2022	\$120,038,408	\$30,000,000		\$336,108	\$312,000	\$648,108	\$0	\$648,108
2023	\$108,781,348	\$30,000,000		\$304,588	\$312,000	\$616,588	\$0	\$616,588
2024	\$96,616,408	\$30,000,000		\$270,526	\$312,000	\$582,526	\$0	\$582,526
2025	\$83,487,600	\$30,000,000		\$233,765	\$312,000	\$545,765	\$0	\$545,765
2026	\$69,311,092	\$30,000,000		\$194,071	\$312,000	\$506,071	\$0	\$506,071
2027	\$54,003,152	\$30,000,000		\$151,209	\$312,000	\$463,209	\$0	\$463,209
2028	\$37,465,876	\$30,000,000		\$104,904	\$312,000	\$416,904	\$0	\$416,904
2029	\$28,264,100	\$28,264,100		\$79,139	\$293,947	\$373,086	\$0	\$373,086
2030	\$28,256,100	\$28,256,100		\$79,117	\$293,863	\$372,981	\$0	\$372,981
2031	\$28,248,300	\$28,248,300		\$79,095	\$293,782	\$372,878	\$217,512	\$590,389
2032	\$28,240,700	\$28,240,700		\$79,074	\$293,703	\$372,777	\$217,453	\$590,231
2033	\$28,233,300	\$28,233,300		\$79,053	\$293,626	\$372,680	\$217,396	\$590,076
2034	\$28,226,100	\$28,226,100		\$79,033	\$293,551	\$372,585	\$217,341	\$589,925
			Total	\$2,491,003	\$4,466,473	\$6,957,476	\$1,023,703	\$7,981,179
			Diff	\$0	\$4,785,822	\$4,785,822	\$5,826,555	\$10,612,377

Source: CPA, BNB Oxbow Solar, LLC

*Tax Rate per \$100 Valuation

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Attachment B – Tax Revenue before 25th Anniversary of Limitation Start

This represents the Comptroller’s determination that BNB Oxbow Solar, LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
Limitation Pre-Years	2018	\$0	\$0	\$0	\$0
	2019	\$0	\$0	\$0	\$0
	2020	\$208,000	\$208,000	\$0	\$0
Limitation Period (10 Years)	2021	\$312,000	\$520,000	\$1,044,902	\$1,044,902
	2022	\$312,000	\$832,000	\$936,399	\$1,981,301
	2023	\$312,000	\$1,144,000	\$819,326	\$2,800,627
	2024	\$312,000	\$1,456,000	\$692,811	\$3,493,438
	2025	\$312,000	\$1,768,000	\$556,271	\$4,049,709
	2026	\$312,000	\$2,080,000	\$408,835	\$4,458,544
	2027	\$312,000	\$2,392,000	\$249,633	\$4,708,177
	2028	\$312,000	\$2,704,000	\$77,645	\$4,785,822
	2029	\$293,947	\$2,997,947	\$0	\$4,785,822
	2030	\$293,863	\$3,291,810	\$0	\$4,785,822
Maintain Viable Presence (5 Years)	2031	\$293,782	\$3,585,592	\$0	\$4,785,822
	2032	\$293,703	\$3,879,296	\$0	\$4,785,822
	2033	\$293,626	\$4,172,922	\$0	\$4,785,822
	2034	\$293,551	\$4,466,473	\$0	\$4,785,822
	2035	\$293,478	\$4,759,951	\$0	\$4,785,822
Additional Years as Required by 313.026(c)(1) (10 Years)	2036	\$293,406	\$5,053,357	\$0	\$4,785,822
	2037	\$293,336	\$5,346,693	\$0	\$4,785,822
	2038	\$293,269	\$5,639,962	\$0	\$4,785,822
	2039	\$293,202	\$5,933,164	\$0	\$4,785,822
	2040	\$293,138	\$6,226,301	\$0	\$4,785,822
	2041	\$293,074	\$6,519,375	\$0	\$4,785,822
	2042	\$293,013	\$6,812,388	\$0	\$4,785,822
	2043	\$292,952	\$7,105,340	\$0	\$4,785,822
	2044	\$292,894	\$7,398,234	\$0	\$4,785,822
	2045	\$292,837	\$7,691,071	\$0	\$4,785,822

\$7,691,071

is greater than

\$4,785,822

Analysis Summary	
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?	Yes

Source: CPA, BNB Oxbow Solar, LLC

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Attachment C – Limitation as a Determining Factor

Tax Code 313.026 states that the Comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that “the limitation on appraised value is a determining factor in the applicant’s decision to invest capital and construct the project in this state.” This represents the basis for the Comptroller’s determination.

Methodology

Texas Administrative Code 9.1055(d) states the Comptroller shall review any information available to the Comptroller including:

- the application, including the responses to the questions in Section 8 (Limitation as a Determining Factor);
- public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
- statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
- existing investment and operations at or near the site or in the state that may impact the proposed project;
- announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
- market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration.

Determination

The Comptroller **has determined** that the limitation on appraised value is a determining factor in the BNB Oxbow Solar, LLC’s decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- BNB Oxbow Solar, LLC, (an affiliate of BNB Energy Holdings, LLC) in Tab 5 of their Application for a Limitation on Appraised Value:
 - A. “BNB is actively developing a select group of renewable energy projects in Connecticut, California, Ohio, Oregon, and Texas. BNB is also active in the development of “inside the fence” renewable energy generation projects and is working with schools, universities, and Fortune 500 companies on various sites across the United States.”
 - B. Depending on the ability to generate cost-effective electricity for regional consumers, BNB has the ability to allocate or reallocate investments to another state, another region of Texas, or another region of the world. BNB Oxbow Solar LLC believes, however, that the proposed site in Borden County is a desirable business location and can provide electricity at a price that is competitive with other regions of Texas. Electric utilities are focused on providing low-cost energy supply to their customers and contracting for the sale of electricity is currently highly competitive, particularly because of the large number of potential solar energy facilities that can be built in West and Central Texas given the newly constructed transmission capacity.
 - C. Receiving the Appraised Value Limitation from the school district is vital to obtaining lone-term financing and to maintaining the economic competitiveness of the project with other projects currently being developed in Texas by BNB and by others.”
- Supplemental information provided by the applicant stated the following:
 - A. Is BNB Oxbow Solar, LLC currently known by any other project names? None.
 - B. Has the project applied to ERCOT at this time? If so, please provide the project’s IGNR number and when was it assigned. ERCOT IGNR Number: 19INRO036, April 13, 2017.

Supporting Information

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value
- c) Additional information provided by the Applicant or located by the Comptroller

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Supporting Information

Section 8 of the Application for
a Limitation on Appraised Value

SECTION 9: Projected Timeline

- 1. Application approval by school board December 2018
- 2. Commencement of construction 3Q 2019
- 3. Beginning of qualifying time period January 1, 2019
- 4. First year of limitation 2021
- 5. Begin hiring new employees December 2020
- 6. Commencement of commercial operations December 2020
- 7. Do you propose to construct a new building or to erect or affix a new improvement after your application review start date (date your application is finally determined to be complete)? Yes No
Note: Improvements made before that time may not be considered qualified property.
- 8. When do you anticipate the new buildings or improvements will be placed in service? December 2020

SECTION 10: The Property

- 1. Identify county or counties in which the proposed project will be located Borden County
- 2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property Borden CAD
- 3. Will this CAD be acting on behalf of another CAD to appraise this property? Yes No
- 4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:
 County: Borden County; 100%; .71750 City: _____
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
 Hospital District: _____ Water District: _____
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
 Other (describe): _____ Other (describe): _____
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
- 5. Is the project located entirely within the ISD listed in Section 1? Yes No
 5a. If no, attach in **Tab 6** additional information on the project scope and size to assist in the economic analysis.
- 6. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)? Yes No
 6a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

SECTION 11: Investment

NOTE: The minimum amount of qualified investment required to qualify for an appraised value limitation and the minimum amount of appraised value limitation vary depending on whether the school district is classified as Subchapter B or Subchapter C, and the taxable value of the property within the school district. For assistance in determining estimates of these minimums, access the Comptroller's website at comptroller.texas.gov/economy/local/ch313/.

- 1. At the time of application, what is the estimated minimum qualified investment required for this school district? 30,000,000.00
- 2. What is the amount of appraised value limitation for which you are applying? 30,000,000.00
Note: The property value limitation amount is based on property values available at the time of application and may change prior to the execution of any final agreement.
- 3. Does the qualified investment meet the requirements of Tax Code §313.021(1)? Yes No
- 4. Attach a description of the qualified investment [See §313.021(1).] The description must include:
 - a. a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 7**);
 - b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your minimum qualified investment (**Tab 7**); and
 - c. a detailed map of the qualified investment showing location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period, with vicinity map (**Tab 11**).
- 5. Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or §313.053 for Subchapter C school districts) for the relevant school district category during the qualifying time period? Yes No

Supporting Information

Attachments provided in Tab 5
of the Application for a
Limitation on Appraised Value

**TAB 5***Documentation to assist in determining if limitation is a determining factor.*

BNB Renewable Energy Holdings LLC (BNB), the parent company of BNB Oxbow Solar LLC, was founded in 2004 to develop clean-energy power plants. More than 700MW of BNB-developed wind and solar plants are operating or under construction throughout the United States and Mexico, with another 500MW in the near-term pipeline. That total includes various projects in Borden, including the 181MW Bull Creek Wind farm (operating) and the 225MW Long Draw Solar plant (under development). (In nearby Dawson County, BNB developed the 152MW Lamesa Solar plant and the 211MW Mesquite Creek Wind farm.) BNB is actively developing a select group of renewable energy projects in Connecticut, California, Ohio, Oregon, and Texas. BNB is also active in the development of "inside the fence" renewable energy generation projects and is working with schools, universities, and Fortune 500 companies on various sites across the United States.

Depending on the ability to generate cost-effective electricity for regional consumers, BNB has the ability to allocate or reallocate investments to another state, another region of Texas, or another region of the world. BNB Oxbow Solar LLC believes, however, that the proposed site in Borden County is a desirable business location and can provide electricity at a price that is competitive with other regions of Texas. Electric utilities are focused on providing low-cost energy supply to their customers and contracting for the sale of electricity is currently highly competitive, particularly because of the large number of potential solar energy facilities that can be built in West and Central Texas given the newly constructed transmission capacity.

Receiving the Appraised Value Limitation from the school district is vital to obtaining long-term financing and to maintaining the economic competitiveness of the project with other projects currently being developed in Texas by BNB and by others.

Supporting Information

Additional information
provided by the Applicant or
located by the Comptroller

COMPTROLLER QUERY RELATED TO TAX CODE CHAPTER 313.026(c)(2)
Borden County ISD–BNB Oxbow Solar, LLC App. #1260

Comptroller Questions (via email July 3, 2018):

1. *Is the BNB Oxbow Solar, LLC currently known by any other project names?*
2. *Has this project applied to ERCOT at this time? If so, please provide the project's IGNR number and when was it assigned.*

Applicant Response (via hand-delivered on July 24, 2018):

1. *None.*
2. 19INR0036, assigned on April 13, 2017